

United States District Court
District of Massachusetts

Christopher Devine
Plaintiff

V.

Stop and Shop Companies Inc

FILED
IN CLERKS OFFICE

2007 APR -5 P 12:14

0412186-~~118~~ JGD
U.S. DISTRICT COURT
DISTRICT OF MASS.

Summary of the evidence
Continued

Answer to defendant's pre trial memorandum

Mr. Devine did experience some job performance problems like failure to complete tasks. Stop and shop is not elaborating on insubordination disruptive behavior in front of customers, mistreatment of co workers failure to meet job standards and poor attendance.

Poor attendance was caused for a mono like illness in 2000 of June and Mr. Devine was out of work for the entire month on an unpaid leave

Tardiness is caused when Mr. Devine experienced diarrhea and came from school. Mr. Devine more than informed them of that fact

Mr. Devine grieved his suspension through his union and was reinstated.

In June Mrs. Devine^{Christopher's Mother} informed the company that he was out with strep infection. Christopher was out of work for several weeks due to his mono like illness.

Sometime thereafter Mr. Devine told Fatima Cabral the manager or supervisor of the bakery department and Ms. Cabral has a picture of herself in the front end of the store that is advertised to the public that she was a manager.

The words that where advertised where BAKE SHOP MANANGER

Full time lead clerks are supervisors even though she is a part of the union if u are a leader to lead is to supervise.

Yes indeed Mr. Devine told two other coworkers other than Fatima Cabral in the bake shop that he was HIV positive after telling Dianna Paris he was HIV positive and after the doctors note that Fatima Cabral ripped up the doctors note.

It was common knowledge among his coworkers that he was HIV positive it was not like management wasn't entirely unaware of his disability if it deteriorated.

Devine did not leave work early and did often fail to complete assigned tasks. Devine's coworkers did not due there best in completing his assignments, when he often failed. The fact that there was no interactive dialogue to initiate the cause of poor work performance and the deterioration to improve his abilities to work.

The store did hold Mr. Devine accountable seldom meaning rarely but in this case exhibit 17 explains the facts that they did held him accountable by disciplining him. And that exhibit 17 contradicts what Paris is saying when disciplining Mr. Devine.

As far as confidentially Mr. Devine over the summer to December 2000 was getting sicker during the summer and in September Mr. Devine wanted to keep it confidential and abide by the Chan of command, but often his illness was getting worse in 2000 he eventually told some co workers. After or around November of 2000 when Dianna Paris disciplined he had no other chose but to reach out to his coworkers that where eventually where transferred out of the store. Mr. Devine got a failed accommodation that was never created and learned to materialize.

Confidentiality was an issue for Mr. Devine during the summer and September of 2000. Ms Cabral crumpled up the doctors note which who broken Mr. Devine trust possibly may have broken his words on confidentially to other managers. (Hear say)

Responsible Because management did not learn of MR. Devine's performance issues is because Ms cabral being the lead clerk or supervisor was ~~reasonable~~ for notifying management of any performance issues management did not check up on Devine to supervise him with a reasonable accommodation or did not initiate the dialogue.

In November Devine did not receive counsel instead he received a report of change disciplinary action from Dianna Paris the perishable manager.

Devine did not tell his sickness to the union which let the union to side with the perishable manager on the issues , but Devine expressed his tardiness that he had diarrhea and came from school. Union sided with company.

If the performance was poor and if the performance deteriorated and when Dianna Paris learned at some point in time his HIV positive status it's a fact that his HIV is handy capped and not a mental illness. As well if she learned at sometime she should have stated an interactive dialogue with the plaintiff before the disciplinary action or after and before he gave two weeks notice.

Stop and shop had two weeks notice to interact with the dialogue

The fact of not knowing and the ignorance of not knowing led her to ignore Devine's request for a reasonable accommodation.

All Mr. Devine has to do is- Is say I NEED HELP need to mention the ADA or use the phrase reasonable accommodation.

Christopher Devine
